

USCA DOCKET # (IF KNOWN)

## UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT CIVIL APPEALS DOCKETING STATEMENT

PLEASE ATTACH ADDITIONAL PAGES IF NECESSARY.

<b>TITLE IN FULL:</b>  JOHN DOE #1; JOHN DOE #2; and PROTECT MARRIAGE WASHINGTON, Plaintiffs, v. SAM REED, Secretary of Sate, and BRENDA GALARZA, Public Records Officer, Defendants	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; border-bottom: 1px solid black;">DISTRICT: Western</td> <td style="width: 50%; border-bottom: 1px solid black;">JUDGE: Benjamin H. Settle</td> </tr> <tr> <td colspan="2" style="border-bottom: 1px solid black;">DISTRICT COURT NUMBER: 3:09-cv-05456 BHS</td> </tr> <tr> <td style="border-bottom: 1px solid black;">DATE NOTICE OF APPEAL FILED: September 28, 2009</td> <td style="border-bottom: 1px solid black;">IS THIS A CROSS-APPEAL?  <input type="checkbox"/> YES               <input checked="" type="checkbox"/> NO             </td> </tr> <tr> <td colspan="2" style="height: 40px; vertical-align: top; border-bottom: 1px solid black;">               IF THIS MATTER HAS BEEN BEFORE THIS COURT PREVIOUSLY,                PLEASE PROVIDE THE DOCKET NUMBER AND CITATION (IF ANY):             </td> </tr> </table>	DISTRICT: Western	JUDGE: Benjamin H. Settle	DISTRICT COURT NUMBER: 3:09-cv-05456 BHS		DATE NOTICE OF APPEAL FILED: September 28, 2009	IS THIS A CROSS-APPEAL? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF THIS MATTER HAS BEEN BEFORE THIS COURT PREVIOUSLY, PLEASE PROVIDE THE DOCKET NUMBER AND CITATION (IF ANY):	
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IF THIS MATTER HAS BEEN BEFORE THIS COURT PREVIOUSLY, PLEASE PROVIDE THE DOCKET NUMBER AND CITATION (IF ANY):									
<b>BRIEF DESCRIPTION OF NATURE OF ACTION AND RESULT BELOW:</b> See attached.									
<b>PRINCIPAL ISSUES PROPOSED TO BE RAISED ON APPEAL:</b>  Did the District err in entering a preliminary judgment which prevents the Defendant public officers from complying with disclosure of referendum petitions, required to be disclosed as public records under Washington's Public Records Act (PRA), and in declaring the PRA unconstitutional as applied to disclosure of these records?									
<b>PLEASE IDENTIFY ANY OTHER LEGAL PROCEEDING THAT MAY HAVE A BEARING ON THIS CASE (INCLUDE PENDING DISTRICT COURT POST-JUDGMENT MOTIONS):</b>  Defendants appealed the Preliminary Injunction on September 11, 2009. Intervenor Washington Coalition for Open Government appealed on September 15, 2009. The two appeals (Ninth Circuit Court of Appeals Case Nos. 09-35818 and 09-35826) were consolidated by the Court.									
<b>DOES THIS APPEAL INVOLVE ANY OF THE FOLLOWING:</b>  <input type="checkbox"/> Possibility of settlement <input type="checkbox"/> Likelihood that intervening precedent will control outcome of appeal <input type="checkbox"/> Likelihood of a motion to expedite or to stay the appeal, or other procedural matters (Specify). _____ <input type="checkbox"/> Any other information relevant to the inclusion of this case in the Mediation Program _____ _____ _____ <input type="checkbox"/> Possibility parties would stipulate to binding award by Appellate Commissioner in lieu of submission to judges									

# LOWER COURT INFORMATION

Page 2 of 2

## JURISDICTION

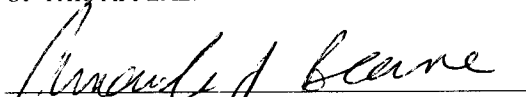
## DISTRICT COURT DISPOSITION

FEDERAL	APPELLATE	TYPE OF JUDGMENT/ORDER APPEALED	RELIEF
<input checked="" type="checkbox"/> FEDERAL QUESTION  <input type="checkbox"/> DIVERSITY  <input type="checkbox"/> OTHER (SPECIFY):	<input type="checkbox"/> FINAL DECISION OF DISTRICT COURT  <input checked="" type="checkbox"/> INTERLOCUTORY DECISION APPEALABLE AS OF RIGHT  <input type="checkbox"/> INTERLOCUTORY ORDER CERTIFIED BY DISTRICT JUDGE (SPECIFY):  <input type="checkbox"/> OTHER (SPECIFY):	<input type="checkbox"/> DEFAULT JUDGMENT <input type="checkbox"/> DISMISSAL/JURISDICTION <input type="checkbox"/> DISMISSAL/MERITS <input type="checkbox"/> SUMMARY JUDGMENT <input type="checkbox"/> JUDGMENT/COURT DECISION <input type="checkbox"/> JUDGMENT/JURY VERDICT <input type="checkbox"/> DECLARATORY JUDGMENT <input type="checkbox"/> JUDGMENT AS A MATTER OF LAW <input checked="" type="checkbox"/> OTHER (SPECIFY): <p><b>PRELIMINARY INJUNCTION</b></p>	<input type="checkbox"/> DAMAGES: SOUGHT \$ AWARDED \$ <input checked="" type="checkbox"/> INJUNCTIONS: <input checked="" type="checkbox"/> PRELIMINARY <input type="checkbox"/> PERMANENT <input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED <input type="checkbox"/> ATTORNEY FEES: SOUGHT \$ AWARDED \$ <input type="checkbox"/> PENDING <input type="checkbox"/> COSTS: \$

## CERTIFICATION OF COUNSEL

### I CERTIFY THAT:

- COPIES OF ORDER/JUDGMENT APPEALED FROM ARE ATTACHED.
- A CURRENT SERVICE LIST OR REPRESENTATION STATEMENT WITH TELEPHONE AND FAX NUMBERS IS ATTACHED (SEE 9th CIR. RULE 3-2).
- A COPY OF THIS CIVIL APPEALS DOCKETING STATEMENT WAS SERVED IN COMPLIANCE WITH FRAP 25.
- I UNDERSTAND THAT FAILURE TO COMPLY WITH THESE FILING REQUIREMENTS MAY RESULT IN SANCTIONS, INCLUDING DISMISSAL OF THIS APPEAL.

  
 Signature

September 28, 2009  
 Date

## COUNSEL WHO COMPLETED THIS FORM

NAME: Amanda J. Beane

FIRM: Perkins Coie LLP

ADDRESS: 1201 Third Avenue, Suite 4800, Seattle, WA 98101

E-MAIL: abeane@perkinscoie.com

TELEPHONE: (206) 359-8000

FAX: (206) 359-9000

**\* THIS DOCUMENT SHOULD BE FILED IN THE DISTRICT COURT WITH THE NOTICE OF APPEAL \***  
**\* IF FILED LATE, IT SHOULD BE FILED DIRECTLY WITH THE U.S. COURT OF APPEALS \***

## **BRIEF DESCRIPTION OF THE NATURE OF ACTION AND RESULT BELOW**

Under the Washington State Constitution, a referendum may be ordered on a bill passed by the legislature, if a petition signed by a constitutionally specified percentage of legal voters is filed with the Secretary of State. When a petition containing the signatures of the requisite percentage of legal voters is filed, an election is held in which the voters decide whether to accept or reject the bill. The Washington Legislature enacted Engrossed Second Substitute Senate Bill (ESSB) 5688, which expanded the rights, responsibilities and obligations accorded state-registered, same-sex and senior domestic partners. Protect Marriage Washington filed Referendum 71 to challenge ESSB 5688. The referendum petition was signed by over 137,000 registered voters. Under Washington's Public Records Act, the Referendum 71 petitions are public records and may be made available for public inspection. Wash. Rev. Code § 42.56.070. Protect Marriage Washington and two John Doe plaintiffs filed this action to enjoin the Secretary of State from disclosing the names on the petitions under the Public Records Act. The plaintiffs claimed that disclosure would violate their rights of association under the First Amendment of the U.S. Constitution. The District Court granted plaintiffs' motion for a preliminary injunction.